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July 10, 1997

William F. Caton, Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

Re: Local Competition Provisions in the Telecommunications Act of 1996
CC Docket 96-98
RM 9101

Dear Mr. Caton:

On behalf of LCI International Telecom Corp., (LCI), attached is an original and four copies of the Company's Comments in the above referenced docket.

Two copies of LCI's Comments have been delivered to Janice M. Myles of the Common Carrier Bureau, and one copy has been delivered to the International Transcription Service, Inc.

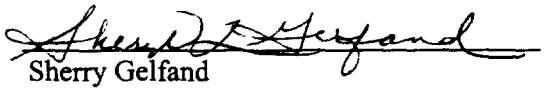
Sincerely,

Douglas W. Kinkoph
Director, Regulatory/Legislative Affairs

No. of Copies rec'd 0+4

CERTIFICATE OF SERVICE

I, Sherry Gelfand, do hereby certify that copies of the foregoing Comments of LCI International Telecom Corp. for the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket 96-98/RM 9101 were served this 10th day of July, 1997 to the following by hand delivery.



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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of:	)	
	)	
Implementation of the Local	)	
Competition Provisions in the	)	CC Docket No. 96-98
Telecommunications Act of 1996	)	RM 9101

LCI INTERNATIONAL TELECOM CORP. COMMENTS ON PUBLIC NOTICE CONCERNING PETITION FOR EXPEDITED RULEMAKING TO ESTABLISH REPORTING REQUIREMENTS AND PERFORMANCE AND TECHNICAL STANDARDS FOR OPERATIONS SUPPORT SYSTEMS

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July 10, 1997

I. Introduction

Petitioner LCI International Telecom Corp. (LCI) supports the issuance of a Notice of Proposed Rulemaking to establish performance standards, reporting requirements, technical standards, and remedial provisions regarding access to operation support systems (OSS). These comments suggest proposed rules concerning OSS performance standards, as well as suggested text for a Commission order regarding technical standards, reporting requirements, and remedial provisions. LCI's suggestions are set forth in detail in Appendices A and B.

II. Need for Commission action

The Commission repeatedly has stated that incumbent local exchange carriers (ILECs) must provide competitors nondiscriminatory access to OSS under Section 251 of the Telecommunications Act of 1996 (Act), 47 U.S.C. §§ 151, et seq. In its First Report and Order (Order) in CC Docket No. 96-98 (Implementation of the Local Competition Provisions of the Telecommunications Act of 1996), the Commission noted that without access to ILEC OSS functions "in substantially the same time and manner that an incumbent can [access OSS] for itself, competing carriers will be severely disadvantaged, if not precluded altogether, from fairly competing." [Order ¶ 518] In its Second Order on Reconsideration (Second Order on Recon), the Commission reaffirmed the need for OSS parity and further indicated that ILECs bear the burden of demonstrating that they are providing parity of OSS access to competitive local exchange carriers (CLECs). [Second Order on Recon ¶ 9]

While the Commission has stated the need for OSS parity, existing rules do not explain how to determine whether an ILEC is complying with the OSS provisions of the FCC's Order implementing Section 251 of the Act. Clearly defined OSS standards would benefit ILECs and

CLECs alike -- the ILECs would know precisely what they need to do to demonstrate parity of access to OSS, and the CLECs would know when such OSS compliance genuinely has been achieved. In this way, the energies now being spent on debating the matter could be redirected to achieving compliance as rapidly as possible.

Establishing performance standards in both the resale and unbundled network element (UNE) contexts, together with the related reporting requirements, is important to ensuring that there is a sufficient base from which the CLECs can launch effective local competition. For resale, one may directly measure parity by comparing the OSS functionality that an ILEC provides itself with the functionality an ILEC provides to CLECs. For UNEs, however, direct comparison may not be possible in some cases, but the necessity of requiring an ILEC to provide a reasonable and adequate level of OSS access and supporting activities is equally paramount.

By developing OSS performance standards for resale and UNEs, the Commission will advance greatly the 1996 Telecommunications Act's promise of providing consumers the benefit of robust, open competition in the local telecommunications market.

III. Overview of Commission action suggested by LCI

The remaining portions of these comments briefly outline LCI's suggestions for Commission action. LCI's suggestions are set forth in more detail in Appendix A and Appendix B hereto. Part I of Appendix A and Appendix B in its entirety set forth suggested text for draft Commission rules that would implement OSS performance standards. Parts II, III and IV of Appendix A set forth suggested text for a proposed Commission order relating to:

- Technical standards;
- Reporting requirements; and

- Remedial provisions to ensure that ILECs in fact are providing nondiscriminatory access to their OSS.

A. Suggested text of draft rules that would implement OSS performance standards

ILECs must provide competing carriers with parity of access to their OSS functions under Section 251 and the Order. Parity of access means that ILECs must provide competing carriers with at least the same OSS functionality that they provide themselves. Thus, to measure parity of access, one should compare the performance that each ILEC provides itself with the performance provided to CLECs for resale and UNEs in all OSS functional categories, detailed in Appendix B hereto. These include (1) pre-ordering, (2) ordering and provisioning, (3) maintenance and repair, (4) general, (5) billing, (6) operator services and directory assistance, (7) network performance, and (8) interconnection, unbundled network elements, and unbundled network element combinations (the network platform).

Part I, Alternative A: Providing short period of industry negotiations on performance standards prior to final Commission action

Regarding negotiated rulemaking, we respectfully suggest that the Commission consider carefully the possibility of establishing a brief period for industry and government meetings (including representatives of both the Commission and state public utility commissions) prior to promulgating a final performance standards rule. *See* Appendix A, Part I. In any such meetings, the Commission should convene the affected industry parties, as well as representatives of the FCC and the National Association of Regulatory Utility Commissioners (NARUC) to establish measurement parameters, methodologies, and minimum performance intervals (collectively constituting "performance standards") for resale and for UNEs, including the network platform.

This group should work to develop agreed upon standards in the areas of (1) pre-ordering, (2) ordering and provisioning, (3) maintenance and repair, (4) general, (5) billing, (6) operator services and directory assistance, (7) network performance, and (8) interconnection, unbundled network elements, and unbundled network element combinations (the network platform). By a very short date certain established by the Commission -- LCI suggests six weeks -- ILEC parties, as a group, and non-ILEC parties, as a group, each should report findings to the Commission. The government observers/participants appointed by NARUC also should have an opportunity to comment fully to the Commission on their views of appropriate performance standards.

Such a brief, expedited procedure holds the possibility of providing the Commission with the best efforts of industry and knowledgeable government observers/participants appointed by the Commission and NARUC before issuance of a final performance standards rule. It also could clarify outstanding issues, and expedite the issuance of a final rule, since comments filed by the affected parties and the NARUC participant/observers would provide a detailed, relatively concise record of the issues agreed upon, and those outstanding, with supporting materials presented.

Any final Commission rule on performance standards, regardless of the methodology established to reach it, should include provisions for beta testing. To ensure operability and scaleability of OSS functions for resale and for UNEs, the Commission should require each ILEC subject to its order to conduct beta tests to demonstrate that it is providing sufficient OSS access to meet its obligations under the Act and the Order. Based on Ameritech's own internal beta test standard for interLATA OSS, we suggest that a reasonable beta test would require an ILEC to demonstrate, for no less than 90 days, its ability to handle at least 20,000 orders per day or 10% of the customer base per month (i.e., roughly the percentage able to be handled in the

long distance markets) per billing site. [See Exhibit 1 at p. 3, for similar standard recently established by Ameritech.]

Part I, Alternative B: Providing that Commission immediately set performance standards for interstate jurisdiction

If, in any NPRM following this notice and comment period, the Commission decides to offer as alternatives both a short period of industry negotiations, as well as proceeding directly to Commission action, the Commission should include in the NPRM a requirement that ILECs subject to Section 251 and the Commission's orders provide, under confidentiality order, their own current performance standards for OSS, from January 1, 1997 forward. Such information will be necessary to have a record from which the Commission could itself establish performance standards. Without such a requirement in the NPRM, a complete new round of comments and briefing would be required to provide such a record. (If a short period of negotiations is chosen, the comments filed by the respective groups concerning performance standards issues would provide the record for Commission action, and no such requirement need be included in any NPRM.)

In the NPRM, if the Commission wishes to leave the option open of an immediately established set of performance standards, it should require, as to each functional OSS category set forth in Appendix B, that each ILEC file with the Commission all existing performance standards for which data exist. ILECs also should identify the categories for which performance standards do not exist. For existing standards, ILECs further should disclose historical data, measurement criteria and methodology, and reporting requirements.

After receipt of these materials, and comments thereon, the Commission will be in a position to establish performance standards. The performance standards suggested by LCI are set forth in Appendix B hereto.

LCI suggests that any performance standards established by the Commission should contain default performance intervals. ILECs would be required to follow the measurement categories and measurement formulas established by the Commission. As to performance intervals, however, the Commission's default performance intervals would take effect only when an ILEC had failed or refused to supply appropriate data for any measurement category or categories. If the ILEC does provide such information, then the "parity" required by the Act and this Commission's orders would be measured by the ILEC's own performance intervals. The parity requirement, however, is subject to a reasonableness standard. If an ILEC's provisioning to itself is lower than reasonable, then LCI proposes here that the state public utility commissions are the appropriate bodies to establish reasonable standards for ILECs within their jurisdiction. See Appendix A, at p. 7, and Appendix B at section (a).

B. Suggested text for Commission order regarding technical standards

The Commission should act promptly to encourage the rapid development of technical standards. There is a critical need for established technical standards to avoid the problems that occur when ILECs change systems standards without notice or otherwise without regard to CLECs' needs. Many industry participants through various industry fora have been working to develop technical standards, particularly standards for the OSS software interfaces, and the FCC should build on these efforts.

To maximize the likelihood of producing a timely, and hence an efficacious, result, the Commission should set a reasonable date certain for finalizing technical standards. If the parties cannot agree to technical standards according to the schedule set by the Commission, then the Commission itself should undertake to set such technical standards. A reasonable initial date certain would be May 1, 1998, with the Commission to act, if necessary, no later than October 1, 1998 to set any unresolved technical standards.

Technical standards will need to allow for the differing needs of competitive carriers. For example, extremely small carriers may continue to need to communicate by fax while larger carriers could communicate by EDI or Web/GUIs. National carriers could communicate with uniform software interfaces, and extremely large carriers with huge volumes could communicate via electronic bonding.

The Commission also should stress that technical standards should be developed through a back-and-forth process, which is normal in a commercial setting. ILECs should not be permitted to unilaterally impose standards on users through industry fora. Thus, the FCC should instruct industry groups to cooperate with other industry groups -- including user groups -- to develop the technical standards on an iterative basis.

C. Suggested text for Commission order regarding reporting requirements

To ensure that ILECs are providing CLECs parity of access to OSS functionality, the Commission should require detailed reporting by ILECs. ILEC reporting should ensure that ILECs are complying with Section 251 of the Act and the Commission's Order. Additionally, ILEC reporting should ensure that CLECs have parity of access to ILEC-controlled competitive information.

To satisfy Section 251 of the Act and the Commission's Order, each ILEC should submit monthly reports on OSS performance to the CLECs with which it is dealing and to the Commission and to the state public utility commissions with jurisdiction. Monthly reports will enable CLECs to track its performance data over time and compare it to the performance received by the ILEC and the CLECs on average. Monthly data to the Commission and state commissions will ensure that regulatory bodies are kept abreast of ILEC compliance with OSS performance standards.

We urge the Commission to develop uniform reporting requirements, as outlined here and in greater detail in Appendix A, Part III. Once uniform measurement categories are defined and uniform measurement forumulas established, with appropriate default performance intervals set, requiring the ILECs to report uniform data will allow well-known and understood tests, so that state commissions, this Commission, CLECs and ILECs will all "speak the same language" on the subject of performance standards. A uniform system of reporting also will enable the state commissions to take appropriate corrective action where necessary, upon a finding that the ILECs actual performance intervals are less than reasonable. Nor will a uniform system of measurement categories and measurement formulas create additional burdens on the ILECs. Indeed, a uniform system should lighten their burden, since their back-office and computer tracking systems could be set up to measure the same items, in the same way. Only performance intervals would change by jurisdiction, depending on whether the state public utility commission had taken action to establish reasonable performance intervals. Finally, uniform measurement categories and measurement formulas are essential for CLECs to set up their back-office systems to track and measure the actual performance of ILECs with which they do business. Many CLECs do business in multiple jurisdictions. Without uniform measurement categories,

and measurement forumulas, CLECs burden of amassing information about actual performance by ILECs will be greatly increased. In short, uniform system of measurement categories, and measurement forumulas, will ease the burden for all concerned--state commissions, this Commission, ILECs and CLECs.

The Commission also must require reporting that ensures that ILECs provide CLECs equal access to Universal Service Order Codes (USOCs) and to information regarding planned changes to systems software. USOC codes, with plain English translation, describe ILEC products and indicate vital competitive information, such as whether a product is resellable or subject to a term contract. Access to information regarding systems changes is critical to keeping CLEC systems in lock step with ILEC systems, without which parity of access cannot exist. Without reporting on ILEC-controlled competitive information, CLECs never will obtain parity with regard to features and services available to customers and potential customers.

Requiring ILECs to provide information on USOCs and software and systems changes to CLECs creates no additional burdens on ILECs, since the data already exists.

D. Suggested text for Commission order regarding remedial provisions

LCI believes that the Commission has full authority to remedy violations of Section 251 of the Act and this Commission's orders thereunder by prohibiting ILECs from marketing long distance services to their local customers for a period of time to be determined by the Commission, after notice and opportunity for a hearing, until full compliance with Section 251 and the Commission's orders is demonstrated through the performance standards reports LCI suggests should be required. For the reasons set forth at some length in Appendix A, Part IV-A,

LCI believes money damages are wholly inadequate to incent ILECs to comply with Section 251 and the Commission's orders.

The Commission's authority to enter such an order, effective as to all ILECs, is fully set forth in Appendix A, Part IV-C. That authority is based on the cases cited at Section IV-C and the legislative history set forth in Appendix A, Section IV-B. Briefly, case law from the United States Supreme Court and Courts of Appeal is clear that a remedy adopted by an administrative agency which is "reasonably related" to the purposes of the Act is valid. Here, such a Commission rule is reasonably related, and necessary, to effectuate the central purpose of the Telecommunications Act--to "let everyone into everyone else's business" and allow consumers the benefits of "one-stop shopping" (cites omitted). If an ILEC, whether an RBOC or a non-RBOC, flouts Section 251 by refusing to open local markets to competition, it will thereby prevent IXC competitors from entering those markets and offering end-to-end bundled service and real competition against the ILEC. It will thereby have frustrated the Congress's purpose in enacting the Telecommunications Act, and will have denied consumers in its jurisdiction the benefits of head-to-head competition on an end-to-end package of telecommunications services. Because money damages are inadequate, this Commission has full authority to adopt the only remedy which will truly incent compliance with Section 251n and ensure that consumers reap the benefits of competition on the merits for "one-stop shopping" for telecommunications services.

IV. Conclusion

The proposed rulemaking provides real promise to get past the OSS logjam, and move to a world of true local competition. We strongly encourage the Commission to continue to act on an expedited basis to issue rules that will allow CLECs, ILECs, the Commission and state

commissions to measure and enforce parity of access to ILECs' OSS. When such rules are issued and enforced, true local competition, and the promise of the 1996 Telecommunications Act, can be achieved.

DATED: July 10, 1997

Respectfully submitted,

Anne K. Bingaman
LCI INTERNATIONAL TELECOM CORP.
By: _____

Eugene D. Cohen
BAILEY CAMPBELL PLC
By: _____

Rocky N. Unruh
MORGENSTEIN & JUBELIRER
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By: _____

Counsel for
LCI International Telecom Corp.

CERTIFICATE OF SERVICE

I, Sherry Gelfand, do hereby certify that copies of the foregoing Comments of LCI International Telecom Corp. for the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket 96-98/RM 9101 were served this 10th day of July, 1997 to the following by hand delivery.

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EXHIBIT 1

Office 202 326-3820
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Ameritech.

Lynn Shapiro Starr
Executive Director
Federal Relations

April 21, 1997

Ms. Regina Keeney
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW
Room 500
Washington, DC 20005

Dear Ms. Keeney:

Your letter of April 14, 1997, to Gary Lytle directing Ameritech to provide a written description of any circumstance under which Ameritech is providing or has provided in-region interLATA service to business or residential customers has been forwarded to me for a response.[1]

Section 271(f) permits Ameritech and its affiliates to engage in activity to the extent that such activity was authorized by the United States District Court for the District of Columbia pursuant to the AT&T consent decree ("MFJ"). Included in this category are activities for which Ameritech sought and received a court approved waiver. Attached is a list of waivers received by Ameritech, their date of entry, and the activities to which they relate.

In addition to the waivered activities, Ameritech services its own internal business needs pursuant to a decision of the United States District Court for the District of Columbia concerning "official services."[2] The Official Services Order will be discussed in detail below. Ameritech relies, in part, on

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1 You have also asked for the legal basis upon which Ameritech relies in providing any such service. By way of clarification, we assume that the reference in your letter excluding services "subject to the explicit exceptions of section 271(f)" was intended to reference 271(g) of the Telecommunications Act ("Act") insofar as 271(g) contains an explicit list of permissible in-region incidental interLATA services and 271(f) contains no explicit exceptions. If this assumption is incorrect, then please advise.

2 *United States v. Western Electric*, 569 F. Supp. 1057 (D. D.C. 1983)(Official Services Order).

this ruling, to support the testing of its interLATA facilities and capabilities through what Ameritech refers to as the "Friendly User Trial."

In preparing to enter into the long distance business, Ameritech has started from scratch – both the facilities-based portion of its network and the operational systems that support it are brand new. Ameritech has developed twenty-seven major systems that must all interface and interoperate together. These systems include ordering, provisioning, rating and billing systems – systems which are the core of any business. It is the largest development and implementation of support systems in the chosen configuration in the country – ever. It consists of five million lines of software code and 300 interfaces. It must be exhaustively tested, tuned, and refined before Ameritech enters the long distance market. Customers will demand and are entitled to nothing less.

With this in mind, Ameritech embarked on the "Friendly User Trial." Today, there are approximately 60 participants: 58 employees of Ameritech Communications, Inc. (Ameritech's section 272 subsidiary) and Dick Notebaert, the Chairman and Barry Allen, Executive Vice President, Consumer and Business Services Sector of Ameritech. Trial participants are not charged for the long distance service they use, but they do have the following responsibilities:

- Place orders for service using a pre-arranged varity of channels (telemarketing, service representatives), with a pre-arranged script and report on the quality of the interaction.
- Continue normal personal long distance habits.
- Report network difficulties.
- Place a variety of predesignated calls each week.
- Keep a log of all calls, recording the date, time, number called and any comments on the quality of the service rendered.
- Compare the logs with bills to validate bills for correctness.
- Meet once a month to provide feedback.

Ameritech plans to expand the Friendly User Trial to include additional Ameritech employees for a period of approximately ninety days. The expansion of the trial is based on the recommendation of an outside consultant who recommends that all of the systems be tested for a peak load of twenty thousand orders per day. Ameritech cannot reach these testing levels without the Friendly User expansion.

Ameritech believes, for at least two reasons, that an expansion of the trial to additional Ameritech employees -- as well as the activities it has undertaken to date -- are fully authorized under the Communications Act of 1996 (the Act). First, the trial is not an interLATA service, as that term has been interpreted by the Commission. It is thus outside the reach of section 271(a). Second, even assuming, *arguendo*, that the trial is an interLATA service for purposes of section 271(a), it is permitted under section 271(f). These conclusions are discussed below.

Section 271(a) prohibits a BOC from providing in-region "interLATA services" prior to receiving section 271 authority. In the Non-Accounting Safeguards Order (CC Docket No. 96-149), the Commission concluded that the term "interLATA services" encompasses two categories of services: (1) interLATA telecommunications services; and (2) interLATA information services.[3] Clearly, Ameritech's friendly user trial is not an interLATA information service. Thus, it is subject to section 271(a) only if it represents an interLATA telecommunications service. The Act defines a "telecommunications service," however, as "the offering of telecommunications for a fee directly to the public . . . " (emphasis added). Because Ameritech's friendly user trial is neither offered to the public nor offered for a fee, it is not a telecommunications service. It is thus outside the scope of section 271(a).[4]

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[3] Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96-149, FCC 96-489, released December 24, 1996, at para. 55.

[4] Ameritech recognizes that the Act uses the term "telecommunications," rather than "telecommunications services" in defining "interLATA service." In the Non-Accounting Safeguards Order, the Commission explained this apparent anomaly. As the Commission found, by using the term "telecommunications," Congress included within the reach of section 271(a), not only interLATA telecommunications services, but also interLATA information services, which are provided on a bundled basis via telecommunications, but which would not have been subject to section 271 if that section applied only to telecommunications services. Thus, the use of the more generic term "telecommunications" in the Act.

Even if Ameritech's friendly user trial were considered to be an interLATA service for purposes of section 271(a), it would, nevertheless, be an authorized activity by virtue of section 271(f). That section provides that, notwithstanding section 271(a), a Bell operating company or affiliate may engage in "previously authorized activities." Therefore, under that provision, a BOC or its affiliates may provide any interLATA service that they were authorized to provide as of the day of enactment of the 1996 Act.

Ameritech was authorized to conduct the Friendly User Trial as of the day of enactment of the 1996 Act because the trial constitutes an "official service." In a 1983 decision interpreting the scope of the decree, Judge Greene squarely held that "official services" are outside both the letter and the spirit of the decree and thus may be provided by the BOCs, regardless of whether they are intraLATA or interLATA in nature.[5]

Turning, first, to the spirit of the decree, the court concluded "it makes no sense to prohibit the Operating Companies from using, constructing, and operating on their own the facilities they need to conduct Official Services, whether they be intraLATA or interLATA in character[.]"[6] The court based this conclusion on the costs and inefficiencies that would arise if the BOCs were prohibited from providing interLATA official services and its conclusion that the rationale underlying the decree "is wholly inapplicable to the provision of interLATA service by each Operating Company for its own internal, official purposes."[7] Noting that the interLATA prohibition was designed to address two forms of anticompetitive behavior – discrimination and cross-subsidization – the court held "[n]either of these reasons is

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5 The court described four categories of official services: (1) the operational support system network, which is a network of dedicated voice and data private lines used to monitor and control trunks and switches; (2) the information processing network, which is a network of dedicated lines linking information systems that are used to transmit data relating to trouble reports, service orders, trunk orders, and other business information; (3) service circuits used to receive repair calls and directory assistance calls from customers; and (4) voice communications used by the Operating Companies for hundreds of thousands of calls relating to their internal businesses. Ameritech's friendly user trial fits within the fourth category described by Judge Greene as the purpose of the trial is to test Ameritech's systems and procedures - a purpose which in uniquely related to Ameritech's internal businesses. (Emphasis added)

6 *Id.* at 1098.

7 *Id.* at 1100.

implicated by the ownership and operation by an Operating Company of its own interLATA Official Service network."[8]

Having concluded that the spirit of the decree did not require a prohibition on the provision by the BOCs of interLATA official services, the court went on to find that the text of the decree likewise required no such result:

> While the Operating Companies are prohibited by section II(D)(1) from providing "interexchange telecommunications services," section IV(P) defines "telecommunications services" as "offering *for hire* of telecommunications facilities." . ... Obviously, the Official Services are not "for hire."[9]

This reasoning compels the conclusion that Ameritech's friendly user trial is permissible under the Act. Insofar as the trial is not a commercial, for-profit undertaking, but a "give-away" of service as part of a test, Ameritech clearly has no incentive or ability to use the trial to anticompetitive ends. Moreover, as explained above, the failure to conduct this trial would unnecessarily and significantly impact Ameritech's ability to provide interLATA services upon receipt of section 271 authority. Not only would this deny the public the long-awaited benefit of additional competition in ong-distance services, it would upset the competitive balance carefully crafted by Congress in the 1996 Act.

As the Commission is aware, there are a number of obligations and rights in the Act that are triggered by a BOC's receipt of interLATA authority. These include the obligation of a BOC to provide intraLATA toll dialing parity in certain circumstances, and the right of the largest interexchange carriers to jointly market interLATA and resold local exchange services. In tying these rights and obligations to BOC receipt of interLATA authority, Congress clearly contemplated and intended that a BOC would have the ability to provide service on receipt of such authority. Its purpose was to

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8 *Id.* at note 187.

9 *Id.* at 1100 (emphasis supplied by court). The court went on to note that the decree similarly prohibits the BOCs from engaging in information services, but expressly permits them to engage in such services "for the management, control, or operation of a telecommunications system or the management of a telecommunications service." *Id.*

create a level playing field. Construing the Act to preclude preauthorization testing of interLATA services would dramatically tilt this playing field. Absent such testing, Ameritech could not enter the long distance market upon its authorization to do so. That would not only be unfair to the BOCs, but contrary to the public's interest in fair and balanced rules of competition.

In short, there is no reason why Ameritech should not be permitted to conduct the necessary testing of its interLATA services prior to receiving section 271 authority. Ameritech believes that the trial falls outside the scope of section 271 insofar as the Commission has defined interLATA services as encompassing interLATA telecommunications service and interLATA information services. But even if that is not the case – that is, even if the Commission finds that section 271(a) applies to activities that are not services – the Commission must find that the trial is a previously authorized activity under section 271(f). A contrary conclusion would require a tortured reading of the 1996 Act – a reading that would be especially inappropriate insofar as it would be directly contrary to the public interest.

Sincerely,

Lynn S. Starr

Attachment
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